

**BOARD OF COUNTY COMMISSIONERS MEETING
TUESDAY, OCTOBER 7, 2008 – 9:31 A.M.
ASSEMBLY ROOM, FIFTH FLOOR
315 COURT STREET, CLEARWATER, FLORIDA**

Members Present: Robert B. Stewart, Chairman; Karen Williams Seel; Susan Latvala; Kenneth T. Welch; and Ronnie E. Duncan.

Members Not Present: Calvin D. Harris, Vice-Chairman; and John Morroni.

Members Late: None.

Others Present: James L. Bennett, County Attorney; Fred E. Marquis, Interim County Administrator; Clarethia N. Harris, Chief Deputy Clerk; and Arlene Smitke, Deputy Clerk.

INVOCATION: Commissioner Welch.

PLEDGE OF ALLEGIANCE: Assistant County Administrator Elithia V. Stanfield.

All public hearing items have been properly advertised. Affidavits of Publication have been received and are on file in the Board Records Department.

#16e Deviating from the agenda, Interim County Administrator Marquis referred to Case No. CW 08-31, the proposal by Pinellas County to amend the Countywide Future Land Use Plan from Residential Low and Preservation to Residential Low, Residential Low Medium, and Preservation, re 23.0 acres m.o.l., located east and west of 49th Street North and north and south of 162nd Avenue North (regular amendment) and indicated that, due to the significance of the issue, the item will be temporarily deferred to the meeting of October 21, 2008, in hopes that all Board members will be present; and no objections were noted.

SCHEDULED PUBLIC HEARINGS – BOARD OF COUNTY COMMISSIONERS

1 Ordinance No. 08-49 adopted amending Section 2-156 et seq. of the Pinellas County Code relating to purchasing. Staff recommended approval of the proposed ordinance. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Latvala
Second - Commissioner Duncan

Commissioner Welch requested that staff prepare a report showing a breakdown of the transactions under the Small Business Enterprise Program.

Vote - 4 – 1 (Commissioner Seel dissenting)

- # 2 Ordinance No. 08-50 adopted amending Sections 2-62(a) and (b) of the Pinellas County Code relating to delegated authority. Staff recommended approval of the proposed ordinance. No correspondence has been received. No citizens appeared to be heard.

Chief Assistant County Attorney Dennis R. Long indicated that the proposed changes are in response to recommendations of the Blue Ribbon Panel following its assessment of the County's real estate practices and processes; and that the goals are to provide for increased efficiency, transparency, and accountability; whereupon, he reviewed the proposed ordinance and, distributing a revised draft, called attention to an added provision restricting authority for Capital Improvement Program (CIP) property acquisitions.

Responding to queries by Commissioner Welch, Attorney Long stated that the Real Estate Division is in the process of revising its policies; that the appraisal process is being addressed; that new policies will come before the Board for approval; that the process continues to be governed by the requirements of Chapter 125, Florida Statutes; and that transactions approved by the Administrator will be disclosed on the quarterly report of delegated items.

During discussion and in response to queries by Commissioner Duncan, Attorney Long provided clarification and suggested minor wording changes pertaining to payments by the County under property lease agreements; and the members concurred.

Commissioner Seel expressed her discomfort with the provision that the Board relinquish its review and approval of CIP transactions. During discussion, Mr. Marquis and Attorneys Bennett and Long provided input and indicated that Commissioner Seel's concerns can be addressed by the Board in its review of the revised appraisal policies which should be forthcoming within the next thirty days.

Motion	-	Commissioner Latvala
Second	-	Commissioner Duncan
Vote	-	4 – 1 (Commissioner Seel dissenting)

- # 3 Resolution No. 08-179 adopted granting the petition of Pamela L. Williamson, f/k/a Pamela L. Brown, and Steven M. Williamson to vacate a portion of a utility easement on Lot 9, Block L, Green Valley Estates Unit Two Subdivision; authority granted for the Clerk to record the resolution. Letters of no objection received from all appropriate parties. Interested property owners were notified of the date of the public hearing. Staff recommended the vacation be granted. One letter in opposition to the petition has been received. No citizens appeared to be heard.

Responding to query by Commissioner Seel, Mr. Marquis indicated that a permit may or may not be required for a tiki hut, depending on the size and design of the structure.

Motion - Commissioner Latvala
Second - Commissioner Duncan
Vote - 5 - 0

- # 4 Permanent roadway disconnection of Rosati Lane South from La Plaza Avenue South (PID No. 922306) approved. Interested property owners were notified of the date of the public hearing. No correspondence has been received. No citizens appeared to be heard.

Responding to query by Chairman Stewart, Mr. Marquis confirmed that the disconnection is requested as part of the Bear Creek Bridge reconstruction project.

Motion - Commissioner Duncan
Second - Commissioner Welch
Vote - 5 - 0

- # 5a Ordinance No. 08-51 adopted creating the Royal Palm Trailer Homes Subdivision Street Lighting District. Staff recommended approval of the proposed ordinance. No correspondence has been received; no citizens appeared to be heard.

Motion - Commissioner Welch
Second - Commissioner Duncan
Vote - 5 - 0

- # 5b Ordinance No. 08-52 adopted creating the Country Square Subdivision Street Lighting District. Staff recommended approval of the proposed ordinance. No correspondence has been received; no citizens appeared to be heard.

Motion - Commissioner Latvala
Second - Commissioner Welch
Vote - 5 - 0

- # 6a Resolution No. 08-168 adopted stating the intent to utilize the Uniform Method of Collecting Non-Ad Valorem Assessments for the servicing of the Royal Palm Trailer Homes Subdivision Street Lighting District as permitted by Section 197.3632, Florida Statutes. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Latvala
Second - Commissioner Duncan
Vote - 5 - 0

- # 6b Resolution No. 08-169 adopted stating the intent to utilize the Uniform Method of Collecting Non-Ad Valorem Assessments for the servicing of the Country Square

Subdivision Street Lighting District as permitted by Section 197.3632, Florida Statutes. No correspondence has been received. No citizens appeared to be heard.

Motion	-	Commissioner Duncan
Second	-	Commissioner Latvala
Vote	-	5 – 0

- # 7 Ordinance No. 08-53 adopted amending Section No. 118-32(1)(a) of the Pinellas County Code relating to the Tourist Development Plan authorizing the expenditure of Tourist Development taxes on museums that are owned and operated by not-for-profit organizations and open to the public. The Tourist Development Council recommended approval of the ordinance. No correspondence has been received. No citizens appeared to be heard.

Convention and Visitors Bureau Director D. T. Minich indicated that the Tourist Development Council provides grant funding to support arts programs; that the funding has been limited to marketing of events and exhibitions; that without funding to sponsor events, museums would have nothing to advertise; that the proposed ordinance will allow museums to use a portion of the grant funds for programming purposes; and that specific guidelines will be developed for approval by the Board.

Responding to queries by the members, Mr. Minich clarified that the provision would apply to fees charged to bring exhibits to the museums; and that grant funding would not be used for operational expenses or bricks and mortar; and Chief Assistant County Attorney Dennis R. Long provided information pertaining to statutory requirements and restrictions imposed by the ordinance.

Motion	-	Commissioner Latvala
Second	-	Commissioner Duncan
Vote	-	5 – 0

- # 8a Dredge and Fill Application No. DF1961-08 submitted by Tom Brewer/Marina Place Condominiums, 2539 Gary Circle, Dunedin (St. Joseph Sound) approved; no correspondence has been received; no citizens appeared to be heard; the biological report has been filed as part of the record; and approval is subject to the following condition:

Turbidity control devices must be maintained throughout dredging. In the event of turbidity problems outside of the immediate work area, the applicant or contractor must take immediate corrective action.

Mr. Marquis indicated that the application has been approved by the City of Dunedin.

Motion	-	Commissioner Duncan
Second	-	Commissioner Latvala
Vote	-	5 – 0

8b Dredge and Fill Application No. DF1969-08 submitted by the City of St. Petersburg for Tinney Creek and adjacent canals between First Street Northeast and Fourth Street North and between 96th Avenue North and 98th Avenue North, St. Petersburg, approved. No correspondence has been received; no citizens appeared to be heard; the biological report has been filed as part of the record; and approval is subject to the following condition:

Turbidity control devices must be properly installed prior to commencing and maintained throughout dredging. In the event of turbidity problems outside of the immediate work area, the applicant or contractor must take immediate corrective action.

Motion	-	Commissioner Duncan
Second	-	Commissioner Latvala
Vote	-	5 – 0

9 Resolution No. 08-170 adopted authorizing the exemption of the County from Florida Statute 316.2123 relating to operation of all-terrain vehicles, thereby prohibiting their operation on paved or unpaved roads or streets in the County. No correspondence has been received. No citizens appeared to be heard.

Motion	-	Commissioner Latvala
Second	-	Commissioner Duncan

Responding to queries by the members, Mr. Marquis indicated that a notice will be posted on the County’s web page; and that first-time violators will be given a warning. Attorney Bennett related that the Sheriff will be notified of the change; that the ban includes all roadways in the County; and that the cities cannot opt out. He gave a general description of an ATV and indicated that a precise definition is provided in the Statute.

Vote	-	5 – 0
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#10 Ordinance No. 08-54 adopted amending Section 14 of the Pinellas County Code, the Animal Services Ordinance. One letter in objection to the ordinance has been received.

Mr. Marquis referred to the draft ordinance and indicated that a provision amending Section 14-27(d) providing for mandatory court appearances has been deleted; whereupon, he recommended approval of the proposed ordinance as amended.

Responding to concerns expressed by Commissioner Seel, Director of Animal Services E. Welch Agnew indicated that he has met with members of the Pinellas Animal Foundation, the Humane Society, the Society for Prevention of Cruelty to Animals, and the Pinellas County Veterinary Medicine Association to advise them of the proposed amendments; that he has spoken with the Humane Society Director, who opposes a provision regarding leaving food out which attracts nuisance animals; and that the Humane Society’s concern pertains to feral cats; whereupon, Mr. Marquis explained that the proposed ordinance would give the County the ability to respond to complaints regarding nuisance animals.

In response to queries by Commissioners Seel and Welch, Dr. Agnew stated that he believes the County has given sufficient advance notice to all parties regarding the proposed changes; that copies of the proposed Ordinance have been provided upon request; and that the only other comment received pertains to capitalization of the vaccination certification title in the ordinance.

In response to query by Commissioner Welch, Attorney Bennett clarified that, with the deletion of the provision mentioned by Administrator Marquis, there will be no change to Section 14-27; and that any reference to it has been removed from the ordinance.

Responding to the Chairman’s call for persons wishing to be heard, Donna Johnson, Kenneth City, and Patti Hillhouse, Clearwater, spoke regarding feral and stray cats; and Ms. Hillhouse submitted information and a petition requesting approval of a Trap, Neuter and Release (TNR) program.

In response to queries by Chairman Stewart and Commissioner Latvala, Dr. Agnew cited several reasons why he is opposed to implementation of a TNR program; whereupon, he discussed the County’s efforts to address the feral cat issue.

Motion	-	Commissioner Duncan
Second	-	Commissioner Welch
Vote	-	4 – 1 (Commissioner Seel dissenting)

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Later in the meeting, Commissioner Duncan requested that the Board address the issue of feral cats at an upcoming work session; and no objections were noted.

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Mr. Marquis noted that agenda items Nos. 11 and 12 are Tax Equity Fiscal Responsibility Act (TEFRA) public hearings and suggested that companion items Nos. 48 and 49 be addressed immediately thereafter; and no objections were noted.

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#11 TEFRA public hearing held and Resolution No. 08-171 adopted approving issuance of not to exceed \$4,500,000.00 Pinellas County Industrial Development Authority Industrial Development Revenue Bonds, Series 2008, on behalf of Bovie Medical Corporation pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Duncan
Second - Commissioner Latvala
Vote - 5 – 0

#12 TEFRA public hearing held and Resolution No. 08-172 adopted approving issuance by Hernando County, Florida, of not exceeding \$28,500,000.00 of Industrial Development Revenue Private Activity Bonds, Series 2008, on behalf of Goodwill Industries-Suncoast, Inc. pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Latvala
Second - Commissioner Duncan

Responding to query by Commissioner Seel, Mr. Marquis confirmed that the Bonds will be issued by Hernando County and will have no fiscal impact on Pinellas County; and Senior Assistant County Attorney Dennis R. Long stated that a TEFRA public hearing is required because part of the project is within Pinellas County.

Vote - 5 – 0

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At this time, 10:46 A.M., Commissioner Seel left the meeting.

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#48 Sitting as the Pinellas County Industrial Development Authority doing business as the Pinellas County Economic Development Authority, the Board adopted Resolution No. 08-176 approving issuance of not-to-exceed \$4,500,000.00 Pinellas County Industrial

Development Authority Revenue Bonds (Bowie Medical Corporation Project), Series 2008, setting forth the terms and conditions of the financing, and approving all documents (Companion Item No. 11).

Motion - Commissioner Duncan
Second - Commissioner Latvala
Vote - 4 – 0

#49 Sitting as the Pinellas County Industrial Development Authority doing business as the Pinellas County Economic Development Authority, the Board adopted Resolution No. 08-177 approving issuance of not-to-exceed \$28,500,000.00 Hernando County Industrial Development Private Activity Bonds (Goodwill Industries-Suncoast, Inc.), Series 2008, and approved an Interlocal Agreement between Hernando County and the Authority (Companion Item No. 12).

Motion - Commissioner Duncan
Second - Commissioner Latvala
Vote - 4 – 0

SCHEDULED PUBLIC HEARINGS – COUNTYWIDE PLANNING AUTHORITY

#13 Second public hearing held re a proposed ordinance amending the Pinellas County Code establishing a Countywide Inclusionary Housing Program. Three phone calls in support of the ordinance have been received since the first public hearing; previous correspondence includes one letter in opposition and 142 letters in support.

Director of Community Development Anthony M. Jones gave a brief overview of the proposed ordinance, and responding to queries by Mr. Marquis and Chairman Stewart, related that letters have been received from six cities indicating their intent to opt out of the ordinance, should it be adopted; that concerns expressed by three of the six have been addressed in the current draft ordinance; that City of St. Petersburg staff have indicated that the City is deferring its decision regarding opt out pending action by the County Commission; and that the remaining municipalities have failed to register any opinion regarding the proposed ordinance.

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Commissioner Seel returned to the meeting at 10:52 A.M.

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Responding to the Chairman's call for persons wishing to be heard, the following individuals spoke in favor of the proposed ordinance, the majority of whom urged the members to postpone action for a vote by the full seven-member Board.

Elizabeth Goldie, St. Petersburg, Faith and Action for Strength Together (FAST) member
Joan Morey, St. Petersburg , FAST member
Donna Davis, Clearwater, FAST member
Carol Mitchell, Largo, FAST member
Josephine H. Germann, Seminole, FAST member
Cora Redix, St. Petersburg, FAST member
Father Joe Diaz, Clearwater, FAST member
Florette Young, St. Petersburg, FAST member
The Reverend Sandy Jamieson, Clearwater, FAST member
Sister Marita Flynn, St. Petersburg, FAST member
Kathy Filippelli, St. Petersburg , FAST member
Eddie Mae Filen, Largo, FAST member
James Lynn, Largo, FAST member

The following individuals spoke in opposition to the proposed ordinance:

Barb Wolf, Largo, member of the Pinellas Realtor Organization
Michael A. J. Bindman, representing the Pinellas Realtor Organization
Norm Roche, Clearwater
Michael Davis, Clearwater, representing Apartment Investment Management Company
Brian Shuford, Clearwater, representing the Pinellas Realtor Organization
Trish Bredfield, Pinellas Park, Fidelity National Title, affiliate member of the
Pinellas Realtor Organization
Jeff Rogo, Tampa, representing the Bay Area Apartment Association
Jennifer Doerfel, Tampa, representing the Tampa Bay Builders Association
Joseph Narkeiwicz, Tampa, representing the Tampa Bay Builders Association
Michael Peterson, Apollo Beach
Commissioner Tom Shelly, Town of Belleair
Mark Klutho, Largo

Chairman Stewart closed the public hearing and invited comments by the members. The following topics were discussed and various suggestions were made.

- The housing market has changed dramatically since the inception of the Inclusionary Housing initiative; there are a large number of homes and rental properties on the market at reduced prices.
- The desperate needs of many citizens are the result of the current economy, not the lack of affordable housing.
- An extensive outreach process was conducted wherein the Commissioners visited the 24 municipalities and spoke to their elected officials, staff, and attorneys; a public charette was held; and all communities were invited to weigh in by a date certain;

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- however, not one community stepped forward verbally or in writing to support the ordinance.
- The County has made progress in addressing the affordable housing issue by establishing the Housing Trust Fund and the Community Land Trust; Community Development has utilized the trust fund to successfully put affordable units in the ground in the unincorporated area that are safe and attractive.
 - The statutory planning process is a major impediment to getting affordable housing units in the ground in a timely manner.
 - The Housing Trust Fund Ordinance limits the use of trust funds, precluding certain purchases which could provide for affordable housing.
 - State officials have failed to provide relief to investment property owners and have improperly used Sadowsky funds intended to address the affordable housing issue.
 - It is not the mission of the County to own or operate properties, but to assist others in utilizing trust fund monies.
 - The County should lay out a plan for use of federal distress funding and the Housing Trust Fund and work with nonprofit groups to build additional affordable housing.

County Attorney Bennett related that the proposed Inclusionary Housing Ordinance was based on 2005-2006 data gathered to satisfy a legal test called the Dual Rational Nexus Test; that the Nexus test would likely apply in any legal challenge to the ordinance; that dated backup data and change in the scope of the ordinance reducing it from countywide to the unincorporated area would call into question the validity of the Nexus test data; and that, at the least, the data would have to be reviewed and updated.

Commissioner Welch moved that action on the proposed Inclusionary Housing Ordinance be temporarily deferred to the October 21 or November 4 Board meeting; whereupon, following input by Attorney Bennett, Commissioner Welch clarified his intent that the matter be deferred for the purpose of Board discussion and action without additional public input; and Commissioner Seel seconded the motion, with the provision that Mr. Jones provide additional ideas for consideration at that time. Discussion continued wherein Commissioners Latvala and Duncan indicated their preference that action pertaining to adoption of the proposed ordinance be taken at today's meeting, and that additional discussion be held at a later date. Upon the Chairman's call for a vote, the motion failed by a vote of 2 to 3, with Chairman Stewart and Commissioners Latvala and Duncan dissenting.

Thereupon, Commissioner Duncan moved, seconded by Commissioner Latvala, to reject staff's recommendation to adopt the Inclusionary Housing Ordinance, as presented, citing its mandatory nature and indicating that he looks forward to discussion of tools available

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to address the affordable housing issue, which may include future changes to the current draft ordinance.

Commissioner Welch thanked the members of the public for their input and requested clarification by Attorney Bennett of his legal opinion on the matter; whereupon, Mr. Bennett indicated that he does not recommend adoption of the ordinance at this time on the basis that lack of participation by the cities and changing market conditions could result in failure to satisfy the requirements of the Nexus test.

Commissioner Welch referred to occupational pay and housing cost data provided by the Tampa Bay Partnership and provided additional comments; whereupon, upon call for the vote, the motion carried 4 to 1, with Commissioner Welch dissenting; and Chairman Stewart clarified that the ordinance was not approved.

Discussion continued regarding ways to move forward to continue the affordable housing initiative. The following suggestions were made:

- Invite the nonprofit organizations to submit a plan to provide affordable housing; organizations like Habitat for Humanity currently provide multifamily housing.
- It may be necessary to change the guidelines on how the Housing Trust Fund money can be spent.
- Incentives contained in the draft ordinance could be provided by making amendments to other control documents.
- Efforts should be focused on the lower-end where the dire need currently exists.
- Pursue a voluntary inclusionary housing program to have as a tool in the toolbox for when the market recovers.
- Look at ways to address the cost of ownership, to ensure people will be able to stay in the housing once they are in; build green to keep homes affordable in the long term.
- Review economic development strategies and continue efforts to attract high-paying jobs into the community.
- Continue to pursue Sadowsky Fund dollars in Tallahassee; maintain commitment to support the Housing Trust Fund on the local level.
- Identify stumbling blocks that have slowed down the process to get affordable housing developments in the ground and work toward regulatory relief.
- Maximize opportunities to work with the Housing Authorities to provide very low income housing.
- Investigate the potential of using money to be received from the federal government to partner with Habitat for Humanity to rehabilitate foreclosed homes.
- The County could purchase land and utilize the request for proposal (RFP) process to incentivize construction of affordable housing.

- ▶ Have a roundtable discussion with representatives from all stakeholders including not-for-profits, FAST, Habitat for Humanity, Realtor organizations, the Builders and Apartment Associations, and the 24 municipalities to pursue other ideas in a think-tank environment.

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The meeting was recessed at 12:31 P.M. and reconvened at 1:06 P.M.

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#14 Ordinance No. 08-55 adopted approving the Master Development Plan for the La Entrada Industrial/Mixed-Use Project (MDP 2008-1). The Pinellas Planning Council (PPC) recommended approval of the Plan subject to the following conditions, and staff concurred.

1. Development of the Progress Energy Parcel (Lot M) consistent with the Transportation/Utility category, contingent upon submission of an agreement with the property owner prior to development of the parcel.
2. Compliance with the conditions of the County's variance approval of July 22, 2008.
3. A report prepared and provided to the PPC every five years, from the date of Plan approval until project completion, documenting the project's progress with respect to its objectives and composition.

No correspondence has been received. No citizens appeared to be heard.

Steven Kurcan, St. Petersburg, stated that he represents the developer, Tarpon Ridge, Inc., and responding to queries by Commissioner Latvala regarding the affordable housing component, indicated that due to changing market conditions, sales prices are yet to be determined; that it is likely the rental units will be constructed before the for-sale units; that the developer has agreed to comply with the affordability/income ranges set forth in the draft Inclusionary Housing Ordinance; that the developer is considering building units that are affordable at 120 percent of the area median income (AMI); and that the target market for the residential development consists of the middle-class individuals who will work within the employment center; whereupon, Administrator Marquis related that at 120 percent of the AMI, 15 percent of the rental units and 10 percent of the for-sale units would be set aside for affordable housing.

Rick MacAulay, City of St. Petersburg Development Services Department, indicated that the City is in support of the PPC's recommendation for approval of the Master Development Plan subject to the conditions noted.

Motion - Commissioner Duncan
Second - Commissioner Latvala
Vote - 5 – 0

- #15 Ordinance No. 08-56 adopted approving Case No. CW 08-34, the proposal by the City of Pinellas Park to amend the Countywide Future Land Use Plan from Preservation with Activity Center to Commercial General with Activity Center, re 0.4 acre m.o.l., located approximately 400 feet northeast of the intersection of U.S. Highway 19 and Gateway Boulevard (subthreshold amendment). Pinellas Planning Council recommended approval of the proposal and staff concurred. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Duncan
Second - Commissioner Welch
Vote - 5 – 0

- #16a Ordinance No. 08-56 adopted approving Case No. CW 08-29, the proposal by the City of Pinellas Park to amend the Countywide Future Land Use Plan from Residential Urban and Commercial General to Commercial General, re 2.0 acres m.o.l., located at 6801 Park Boulevard (regular amendment). Pinellas Planning Council recommended approval of the proposal and staff concurred. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Duncan
Second - Commissioner Welch
Vote - 5 – 0

- #16b Ordinance No. 08-57 adopted approving Case No. CW 08-30, the proposal by the City of Gulfport to amend the Countywide Future Land Use Plan from Residential Low to Institutional, re 1.8 acres m.o.l., located north of 13th Avenue South between 61st Street South and 62nd Street South (regular amendment). Pinellas Planning Council recommended approval of the proposal and staff concurred. No correspondence has been received. No citizens appeared to be heard.

Motion	-	Commissioner Latvala
Second	-	Commissioner Duncan
Vote	-	5 – 0

#16c Ordinance No. 08-58 adopted approving Case No. CW 08-32, the proposal by the City of Largo to amend the Countywide Future Land Use Plan from Industrial Limited, Preservation, and Water/Drainage Feature to Institutional, Preservation, and Water/Drainage Feature, re 4.0 acres m.o.l., located at 13707 and 13805 58th Street North (regular amendment). The Pinellas Planning Council recommended approval of the proposed amendment subject to the following conditions, and staff concurred.

1. The area designated Preservation shall remain Preservation.
2. The City of Largo shall evaluate the eastern portion of the amendment area to determine if it should be designated Preservation and/or Water/Drainage Feature and submit a corresponding map adjustment in 2009.

No correspondence has been received. No citizens appeared to be heard.

Commissioner Welch indicated that he would abstain from the vote due to his employment with St. Petersburg College, and in accordance with the provisions of the Standards of Conduct Law, submitted a Memorandum of Voting Conflict which has been filed and made a part of the record.

Motion	-	Commissioner Latvala
Second	-	Commissioner Duncan
Vote	-	4 – 0 (Commissioner Welch abstaining)

#16d Ordinance No. 08-58 adopted approving Case No. CW 08-33, the proposal by the City of Largo to amend the Countywide Future Land Use Plan from Industrial Limited to Institutional, re 4.6 acres m.o.l., located at 14025 58th Street North (regular amendment). The Pinellas Planning Council recommended approval of the proposed amendment and staff concurred. No correspondence has been received. No citizens appeared to be heard.

Commissioner Welch indicated that he would abstain from the vote due to his employment with St. Petersburg College, and in accordance with the provisions of the Standards of Conduct Law, submitted a Memorandum of Voting Conflict which has been filed and made a part of the record.

Motion	-	Commissioner Duncan
Second	-	Commissioner Latvala
Vote	-	4 – 0 (Commissioner Welch abstaining)

CITIZENS TO BE HEARD

Jerome Hendrickson, Gulfport, re SHIP funds, housing.
Mark P. Klutho, Largo, re stupidity, waste.
Greg Pound, Largo, re family.

CONSENT AGENDA ITEMS NOS. 17 THROUGH 28 – APPROVED.

Motion - Commissioner Duncan
Second - Commissioner Welch
Vote - 5 - 0

#17 Minutes of regular meetings of August 26 and September 2, 2008 approved.

#18 Reports received for filing:

- a. Pinellas County Quarterly Donation Listing of \$500 and Greater for the period April 1 through June 30, 2008.
- b. City of Safety Harbor Comprehensive Annual Financial Report for Fiscal Year ended September 30, 2007.
- c. Dock Fee Report for the month of August 2008.

#19 Vouchers and Bills Paid - Periods August 18 through August 20, 2008, August 25 through August 29, 2008, and September 1 through September 5, 2008.

Payroll Journal Expenditures
Payroll Journal page numbers 1 through 2517
Payroll checks numbered 558607 through 558827

Imprest Fund Expenditures
Manual checks numbered 751508 through 751509
System checks numbered 937176 through 937340, 224197 through 224212, and 937849 through 939547

ACH Transfers numbered 860 through 955

Wire Transfers numbered 010713 through 010715 and 010717 through 010727

#20 Miscellaneous items received for filing:

- a. Florida Department of Environmental Protection Notice of Intent to Sell Surplus State Land (St. Petersburg Parole and Probation Office, 2554 22nd Avenue South, St. Petersburg).

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- b. City of Clearwater Public Hearing Notices of Annexation, Land Use Plan, Rezoning and Zoning Atlas Amendments regarding Ordinances Nos. 7945-08, 7946-08, 7973-08, 7974-08 and 7976-08 through 7978-08 and Notice of Amendment to the Clearwater Community Development Code re Ordinance No. 7999-08; public hearings held September 4 and October 2, 2008 and to be held November 6, 2008.
 - c. City of Largo Notices of Public Hearings regarding Ordinances Nos. 2008-74 through 2008-77 held September 16, 2008, annexing certain property.
 - d. City of Oldsmar Notice of Public Hearings regarding Ordinances Nos. 2008-22 and 2008-23 annexing certain property; public hearing held October 7, 2008.
 - e. Correspondence from the City of Seminole regarding Ordinance No. 26-2008 voluntarily annexing certain property, public hearing to be held October 28, 2008.
 - f. City of Pinellas Park Notice of Public Hearing re Ordinance No. 3637 to be held October 9, 2008 annexing certain property.
 - g. City of Largo Resolution No. 1975 agreeing to participate in the negotiation process regarding annexation provided for under the Interlocal Service Boundary Agreement Act.
 - h. Entrada Community Development District's Fiscal Year 2009 Meeting Schedule.
 - i. Pinellas Park Water Management District Minutes of Regular Authority Meeting No. 10 dated July 17, 2008.
 - j. Southwest Florida Water Management District's Fiscal Year 2009 Board Meeting Calendar and a map depicting the District's boundaries as required by Florida Statute Chapter 189.417.
 - k. Tampa Bay Water regular board meeting calendar for the year 2009.
- #21 Plats, Guarantees, Sureties, and Agreements:
JD Byrider Auto Sales – Byrider Finance, Inc. – Maintenance surety funds released.
- #22 Amendment No. 1 to the Joint Project Agreement (JPA) with Peoples Gas System, a Division of Tampa Electric Company (PGS) for utility installation by roadway contractor for Park Street/Starkey Road Improvements from 84th Lane North to Bryan Dairy Road, approved at no cost to the County (PID No. 865); Chairman authorized to sign and the Clerk to attest. The amendment also reflects a name change from Peoples Gas System, Inc. to Peoples Gas System, a Division of Tampa Electric Company.
- #23a Change Order No. 1 (final) to Agreement with Rowland, Inc. for the Central Palm Harbor Phase 3B Reclaimed Water Distribution System (Project No. 1821-B; Bid No. 067-0466-C) approved decreasing the agreement amount by \$336,843.32 (revised agreement amount, \$1,412,926.18) and extending the agreement by 18 days; agreement

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accepted as complete as of February 8, 2008; retainage released in the amount of \$70,646.31; Chairman authorized to execute and the Clerk to attest.

#23b Change Order No. 1 (final) to contract with Inliner American, Inc. for the Sanitary Sewer Clean and Televisive Annual Contract 2005 (Project No. 1834; Bid No. 056-0184-C) approved decreasing the contract amount by \$20,303.75 (revised agreement amount, \$647,696.25) and extending the contract by 112 days; contract accepted as complete as of June 16, 2008; Chairman authorized to execute and the Clerk to attest.

#24 Ranking of firms for a Technology Marketing Program–Convention and Visitors Bureau (CVB) (Contract No. 078-0530-P) approved as follows:

1. Miles Media Group, LLP
2. The Zimmerman Agency
3. Artemus Technologies, Inc.
4. Mediagistic, Inc.
5. Visual Gov Solutions, LLC
6. Bayshore Solutions

Final negotiated agreement with the number one ranked firm, Miles Media Group, LLP, approved for an estimated annual cost to the County in the amount of \$425,000.00; services shall commence upon execution of the agreement and continue through September 30, 2009 and may be renewed for up to three additional 12-month options of renewal beyond the initial contract period. Contract renewals will allow for price adjustments in an amount not to exceed the average of the Consumer Price Index for all urban consumers, not seasonally adjusted, for the twelve months prior to renewal, or five percent, whichever is less. Chairman authorized to sign and the Clerk to attest after proper execution of the agreement by the contractor and written approval as to form by the Office of the County Attorney (Convention and Visitors Bureau).

During discussion and in response to queries by Commissioner Welch, Convention and Visitors Bureau Director D. T. Minich provided information relating to tourist activity data and websites operated by the CVB, noting that September figures for tourism were down, but that October should be a good month. Mr. Minich expressed a concern regarding the winter season, noting an upcoming ten percent reduction in airline seating capacity at Tampa International Airport.

#25 Fiscal Year 2008 Budget Amendment No. 16 was filed and made a part of the record (Management and Budget).

- #26 Resolution No. 08-173 adopted appropriating earmarked receipts for a particular purpose in the Fiscal Year 2009 Community Development Fund budget for unanticipated grant funds from the U.S. Environmental Protection Agency (Management and Budget).
- #27 Quitclaim Deed with the Florida Department of Transportation (FDOT) for the Lake Tarpon Water Quality Area Six Project accepted (PID No. 921812) (Real Estate Management/Environmental Management).
- #28a Declaration of one County-owned cellular telephone as surplus and authorization for sale of same to Commissioner Robert B. Stewart for a lump sum of \$25.00 approved (Real Estate Management).
- #28b Declaration of two County-owned vehicles (Assets Nos. 90807 and 90994) as surplus and authorization for sale of same to Dixie County for a lump sum of \$5,600.00 approved; distribution of proceeds from the sale from Governmental Funds to the Fleet Internal Service Fund to offset the replacement cost of future vehicles approved (Real Estate Management/Fleet Management).
- #29 Items for discussion from Consent Agenda (County Administrator and Clerk of Circuit Court) – None.
- #30 Ground Lease Agreement with Renewal Option with MIDA Group, LLC; Termination of Lease Agreement; and Notice of Lease Termination between Pinellas County and U.S. Food Service, Inc. approved (adjusted rental rate of \$0.32 per square foot; estimated annual revenue of \$65,793.00); extended lease term shall commence on the date of execution and continue for a period of 30 years with one successive option-to-renew period of 10 years. Chairman authorized to execute and the Clerk to attest.
 - Motion - Commissioner Welch
 - Second - Commissioner Latvala

During discussion and in response to queries by Commissioner Seel, Director of Public Works and Transportation Peter J. Yauch, with input by Interim County Administrator Fred E. Marquis, clarified that the new lease will reflect an adjusted rental rate of \$0.32 per square foot and will reflect market value; and specified that as a consideration of the lease extension, MIDA Group, LLC will be renovating the facility at a cost of approximately \$1.0 million.

Vote - 5 – 0

#31 Interlocal Agreement with the City of St. Petersburg for Countywide Intelligent Transportation Systems (ITS) approved; Chairman authorized to sign and the Clerk to attest.

Motion - Commissioner Latvala
Second - Commissioner Duncan
Vote - 5 – 0

#32 Amendment No. 5 to Agreement for Consultant Services with URS Corporation Southern for Park Street/Starkey Road (County Road 1) from Tyrone Boulevard to Bryan Dairy Road improvement project (PID Nos. 864 and 865) approved increasing the agreement by \$81,590.60 for a revised total of \$2,559,283.13; Chairman authorized to sign and the Clerk to attest.

Motion - Commissioner Latvala
Second - Commissioner Welch
Vote - 5 – 0

#33 Authorization granted for the Clerk to advertise a public hearing to be held October 21, 2008, re a proposed ordinance establishing combustion motor exclusion and vessel exclusion zones for Fort DeSoto and Sand Key Parks (Culture, Education, and Leisure/Environmental Management).

Motion - Commissioner Welch
Second - Commissioner Seel

In response to queries by Commissioner Seel and Chairman Stewart, Culture, Education, and Leisure Director Paul Cozzie provided a general overview relating to the proposed ordinance. He indicated that an existing vessel exclusion area in Fort DeSoto Park will be extended to include the entire public use area at North Beach; that a combustion motor exclusion zone will be established to the south; and that a vessel exclusion zone will be established at the dog beach; whereupon, Mr. Cozzie indicated that the ordinance codifies an existing vessel exclusion zone at Sand Key Park that was originally created and managed by the City of Clearwater, which the County now maintains; that the zones are proposed along public beaches to protect beach users and provide for boating safety; and that the combustion motor exclusion zone west of North Beach is adjacent to a bird roosting and nesting area.

Thereupon, Nicole Elko, Coastal Management Coordinator, indicated that buoys will be installed to designate exclusion areas; that installation and maintenance costs will be approximately \$15,000.00; and that Environmental Lands Division (LIMA) deputies will

provide enforcement of the ordinance; whereupon, Chairman Stewart requested that a depiction of any necessary signage be presented at the Public Hearing.

Vote - 5 – 0

- #34 Primary Health Care Agreement between Pinellas County and Community Health Centers of Pinellas, Inc. for preventive, primary care, wellness services, and pharmaceuticals to uninsured and under-insured residents of Pinellas County approved; total funding under the agreement not to exceed \$3,500,000.00; agreement retroactive to October 1, 2008 (Health and Human Services).

Motion - Commissioner Latvala

Second - Commissioner Welch

Vote - 5 – 0

Following the vote and in response to query by Commissioner Seel, Director of Health and Human Services Maureen A. Freaney, with input by Joe Santini, Director of Business Development at Community Health Centers of Pinellas, Inc., provided information regarding the hours of operation at various facility locations, indicating that hours will be adjusted based on demand for services.

- #35 Disbursement of funds from the Alcohol and Drug Abuse Trust Fund for selected agencies identified in the funding matrix, which has been filed and made a part of the record, for Fiscal Year 2008-2009 in the amount of \$70,000.00 as recommended by the Pinellas County Substance Abuse Advisory Board approved (Justice and Consumer Services).

Motion - Commissioner Welch

Second - Commissioner Duncan

Vote - 5 – 0

- #36 Distribution of Edward Byrne Memorial Justice Assistance Grant funds for Fiscal Year 2008-2009 in the amount of \$149,852.00 among five applicants as recommended by the Pinellas County Substance Abuse Advisory Board approved (Justice and Consumer Services).

Motion - Commissioner Latvala

Second - Commissioner Welch

Vote - 5 – 0

- #37a Other Administrative Matters.

Agreement for advertising and promotional services with Birdsall, Voss & Associates, Inc. (BVK) (Contract No. 078-0289-P) approved; the County shall pay annual service

fees equal to the sum of 15 percent of the advertising component of the Tourist Development Council (TDC) promotional activities budget as approved by the Board (FY 09 fee, \$1,132,102.00); agreement is effective as of October 1, 2008 and shall continue through September 30, 2011; term of agreement may be extended for up to two additional 12-month terms. Chairman authorized to sign and the Clerk to attest after proper execution of the agreement by the contractor and written approval as to form by the Office of the County Attorney (Convention and Visitors Bureau/Purchasing).

Motion - Commissioner Latvala
Second - Commissioner Duncan

Convention and Visitors Bureau Director D. T. Minich provided background information regarding the *Advertising and Promotions Service Agreement* presented for the members' consideration; and in response to queries by Chairman Stewart, Mr. Minich indicated that the Agreement continues through September 30, 2011; that the dollar amount will fluctuate yearly depending upon collected tax revenue; that a new line item has been added to the CVB budget, titled *Promotional Contracts*; that new contracts will only be between the County and the promoter; and that the County will reimburse the promoter for the cost of media expenditures incurred; whereupon; discussion ensued regarding cost savings which could be realized by the County.

Vote - 5 – 0

- #38 County Attorney authorized to defend the County's interests:
 - a. The Bank of New York versus Siegfried Meyer, et al. – Circuit Civil Case No. 08-12282-CI-17 – Mortgage Foreclosure Involving a Recorded Tax Lien.
 - b. Countrywide Home Loans, Inc. versus William Chandler, et al. – Circuit Civil Case No. 07-010988-CI-21 – Mortgage Foreclosure Involving a Utilities Lien.
 - c. Deutsche Bank National Trust Company versus Alan Steele, et al. – Circuit Civil Case No. 08-12758-CI-19 – Mortgage Foreclosure Involving a Utilities Lien.
 - d. Robert Joseph Beckham versus Pinellas County Utilities – U.S. Bankruptcy Court, South District of Indiana, Indianapolis Division Case No. 08-501-FJO-7 – Settlement of a Bankruptcy Lawsuit.
 - e. Frederick Nielsen versus Pinellas County, Office of Human Rights – United States District Court Case No. 8:08-cv-00711-EAK-TBM – Allegations of Discrimination.

Motion - Commissioner Latvala
Second - Commissioner Duncan
Vote - 5 – 0

- #39 County Attorney authorized to initiate litigation in the case of Pinellas County versus John Andersen, Jr. and Jessica Yocum – Negligence in the Operation of a Motor Vehicle.

Motion - Commissioner Welch
Second - Commissioner Seel
Vote - 5 – 0

#40 Approval of consent to withhold legal services to the Pinellas County License Board for Children’s Centers and Family Day Care Homes (PCLB).

Attorney Bennett provided background information relating to the PCLB and indicated that it is an independent special district which was created by special act in 1961; and that pursuant to the special act, the County Attorney may represent the PCLB in civil matters with the consent of the BCC and if consent is withheld, the PCLB may hire legal counsel.

Mr. Bennett indicated that the Office of the County Attorney has provided legal representation to the PCLB for many years; and that his new dual representation policy combined with recent changes in the relationships between and among the Juvenile Welfare Board (JWB), the PCLB, and the Health Department have illuminated problems relating to the continued representation of the PCLB; whereupon, Mr. Bennett explained that the Office of the County Attorney needs to withdraw from any further legal representation of the PCLB as it can no longer provide representation without violating its own professional responsibilities and its duty of loyalty to the BCC and other affected stakeholders.

Thereupon, Mr. Bennett recommended that consent be withheld for the County Attorney to represent the PCLB. He reported that he had met with PCLB staff and expressed his concerns; that a PCLB committee is in the process of searching for legal counsel candidates; and that the new attorney will be provided assistance by the County Attorney for a transition period of not more than 90 days, noting that direct representation will continue to be provided for 30 days; whereupon, Health Department Director Dr. Claude M. Dharamraj provided historical background information regarding relationships between the various boards and departments; and requested that if legal counsel must be withheld, that it be delayed until July 1, 2009 so that the PCLB has adequate time to prepare and secure funding.

In response to queries by Chairman Stewart, Mr. Bennett indicated that by way of interlocal agreements, the Office of the County Attorney represents the Pinellas County Construction Licensing Board (PCCLB) and the Metropolitan Planning Organization (MPO) without dual representative conflicts; and that the Pinellas Planning Council (PPC) is a dependent special district which hires outside counsel when a conflict scenario arises; whereupon, Mr. Bennett explained that if County lawyers continue to provide counsel to the PCLB throughout the next eight months, it will place them in the awkward

position of trying to provide support to the PCLB adverse to their professional responsibilities to the Board.

During discussion and in response to queries by Commissioner Seel, Senior Assistant County Attorney Christy D. Pemberton indicated that almost certainly a lawyer could be located who would provide services on a pro bono basis for a brief period of time and possibly for the entire eight months; whereupon, Commissioner Seel indicated that she sits on the Licensing Board and Commissioner Welch sits on the Juvenile Welfare Board; and that if the JWB desires the PCLB to fall under the BCC, it would place the commissioners in a conflictive situation.

In response to queries by Commissioner Welch regarding ultimate fiscal responsibility for the PCLB, Mr. Bennett reiterated that the special act authorizes, but does not require, the BCC to provide funding or grant consent for legal support, and states that if the BCC withholds consent, the PCLB is authorized to obtain outside legal counsel. During further discussion, Ms. Pemberton, with input by Mr. Bennett, indicated that the PCLB was created by legislation as an independent special district; and that when the Charter Review Commission (CRC) began reviewing special districts during 2005, the Office of the County Attorney discovered that the PCLB was not in compliance; and that the decision that the PCLB is an independent special district was made in Tallahassee.

Thereupon, Commissioner Seel commended Dr. Dharamraj and her staff for their hard work; and requested that the members find a way to resolve the situation, and Commissioner Latvala concurred. During discussion of the various ways of funding counsel for the PCLB, Mr. Bennett indicated that his office has a general fund of \$270,000.00 designated for outside counsel expenses; and that counsel for the PCLB would cost approximately \$3,000.00 per year; whereupon, Commissioner Latvala commented that she would prefer that the PCLB counsel be paid from those funds. In response to queries by Chairman Stewart and Commissioner Duncan and at the direction of the Board, Mr. Bennett indicated that money issues notwithstanding, his office could accommodate the dual representation conflict if the PCLB were to retain separate counsel; and that he would find a solution to accommodate the PCLB until July 1, 2009, with assistance terminating on that date.

- #41 Resolution No. 08-174 adopted designating a Hearing Officer for Pinellas County License Board for Children's Centers and Family Day Care Homes (PCLB) and repealing Resolution No. 92-174.

Senior Assistant County Attorney Christy D. Pemberton, with input by Attorney Bennett, provided background information relating to the PCLB; and in response to queries by

Commissioner Welch, Ms. Pemberton indicated that the BCC currently utilizes senior judges to provide hearing officer services at a daily rate of \$350.00; that the PCLB will now be responsible for compensating senior judges or hearing officers; and that the PCLB could search for hearing officers who would provide services on a pro bono basis.

Motion - Commissioner Welch
Second - Commissioner Latvala
Vote - 5 – 0

#42 Payment under special counsel contract with Ford & Harrison, LLP for services rendered to the County in litigation and administrative proceedings involving labor matters approved.

Motion - Commissioner Welch
Second - Commissioner Latvala
Vote - 5 – 0

#43 The Board acknowledged that Fred E. Marquis, as Interim County Administrator, will continue to have approval authority as provided in Ordinance 06-67 throughout the remainder of his employment with the County so as to provide for a smooth transition for the recently selected County Administrator, Robert S. LaSala.

Motion - Commissioner Seel
Second - Commissioner Duncan
Vote - 5 – 0

Following the vote, Mr. Marquis indicated that his BCC signatory duties will end on November 4, 2008 and subsequently be assumed by Mr. LaSala.

* * * *

At this time, 2:35 P.M., Commissioner Duncan left the meeting.

* * * *

#44 Pinellas County Board of County Commissioners §457 Deferred Compensation Plan and Trust with the International City/County Management Association Retirement Corporation (ICMA-RC) approved, restated, and readopted (plan merges the various accounts into one plan covering all Unified Personnel System Appointing Authorities and employees); Administrative Services Agreement adopted; Resolution No. 08-175 adopted permitting online loans, loan guidelines and amendment thereto; Chairman authorized to sign and the Clerk to attest.

Motion - Commissioner Welch
Second - Commissioner Latvala
Vote - 4 – 0

- #45 Settlement approved in the case of Mark Anderson versus Pinellas County Government – Workers’ Compensation Date of Accident – August 31, 2001 in accordance with the confidential memorandum from County Attorney James L. Bennett dated October 7, 2008.

Motion - Commissioner Seel
Second - Commissioner Welch
Vote - 4 – 0

- #46 County Attorney Miscellaneous – None.

- #47 Sitting as the Countywide Planning Authority (CPA), the Board received and accepted a minor plan change to the Beach by Design Special Area Plan.

Motion - Commissioner Latvala
Second - Commissioner Welch
Vote - 4 – 0

- #50 Resolution No. 08-178 adopted approving the issuance by the Housing Finance Authority of Pinellas County of its Multifamily Housing Revenue Bonds, Series 2008, in the aggregate amount not-to-exceed \$10,500,000.00 to provide funds for the acquisition and rehabilitation of The Columbian Apartments for the benefit of SP One, Ltd., a Florida limited partnership.

Motion - Commissioner Latvala
Second - Commissioner Seel
Vote - 4 – 0

- #51 County Administrator Reports – None.

- #52 Reappointment of Darby Dickerson to the Educational Facilities Authority approved; new term to expire October 25, 2013.

Motion - Commissioner Seel
Second - Commissioner Latvala
Vote - 4 – 0

- #53 Reappointment of Harold “Doc” Kinsey to the Greater Seminole Area Special Recreation District for a four-year term, expiring November 30, 2012 approved.

Motion	-	Commissioner Seel
Second	-	Commissioner Welch
Vote	-	4 – 0

* * * *

At this time, 2:38 P.M., Commissioner Duncan returned to the meeting.

* * * *

#54 Appointment of Rachel Lubitz to the Pinellas County Youth Advisory Committee for the term of October 7, 2008 through July 31, 2009, approved.

Motion	-	Commissioner Seel
Second	-	Commissioner Latvala
Vote	-	5 – 0

#55 County Commission Miscellaneous:

- a. Commissioner Duncan requested that the Board address the issue of feral cats at an upcoming work session; congratulated Commissioner Welch for receiving the State of Florida Housing Coalition’s annual Leadership Award.
- b. Commissioner Seel extended condolences and encouragement to Commissioners Harris and Morroni and their families.
- c. Commissioner Welch echoed the comments of Commissioner Seel and offered condolences to the family of Jackie Brown; credited the Board for its work to address the homelessness issue; commented on the opening of the downtown St. Petersburg extension of the Pinellas Trail.

October 7, 2008

d. Commissioner Latvala wished Commissioner Morroni a speedy recovery.

reported on possible acquisition of environmentally-sensitive land for a joint project with the City of Dunedin, and Mr. Marquis provided input. Mr. Marquis was directed to hold discussions and provide information for consideration by the Board.

expressed concern regarding drought conditions, and Director of Utilities Thomas T. Crandall discussed conservation outreach efforts through mailing inserts and the media.

e. Chairman Stewart commented on camaraderie among the commissioners; congratulated Commissioner Welch; and expressed support for the Tampa Bay Rays.

#56 Meeting adjourned at 2:53 P.M.

Chairman

ATTEST: KEN BURKE, CLERK

By _____
Deputy Clerk